



FEDERAL ELECTION COMMISSION
Washington, DC 20463

Via Email and First Class Mail

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OCT 31 2018

RE: MUR 7525 (formerly RR 18L-14)
National Venture Capital Association
VenturePAC and Jeff Farrah in his official
capacity as treasurer

Dear Mr. Burns:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting your client, National Venture Capital Association VenturePAC and Jeff Farrah in his official capacity as treasurer (the "Committee"), may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On March 16, 2018, the Commission notified the Committee that it was being referred to the Commission's Office of General Counsel for possible enforcement action under 52 U.S.C. § 30109. On October 23, 2018, the Commission found reason to believe that the Committee violated 52 U.S.C. § 30104(b)(1) and (b)(6)(B)(v), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is enclosed for your information.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that the Committee has a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

Caleb Burns, Esq.
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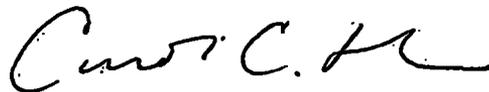
probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your client as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law.

If your client is interested in engaging in pre-probable cause conciliation, please contact Kimberly D. Hart, the attorney assigned to this matter, at (202) 694-1618 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if your client is not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at <http://www.fec.gov/respondent.guide.pdf>.

We look forward to your response.

On behalf of the Commission,



Caroline C. Hunter
Chair

Enclosures
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 RESPONDENTS: National Venture Capital Association MUR 7525
6 VenturePAC and Jeff Farrah in his official
7 capacity as treasurer

8 **I. INTRODUCTION**

9 This matter was generated based on information ascertained by the Federal Election
10 Commission (the "Commission") in the normal course of carrying out its supervisory
11 responsibilities, *see* 52 U.S.C. § 30109(a)(2). The Reports Analysis Division ("RAD") referred
12 the National Venture Capital Association VenturePAC and Jeff Farrah Menes in his official
13 capacity as treasurer ("NVCA PAC" or the "Committee") to the Office of General Counsel for
14 failure to provide information relating to disbursements corresponding to a \$93,339.13 cash-on-
15 hand adjustment on its Amended 2014 March Monthly Report.¹ For the reasons set forth below,
16 the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(1) and
17 (b)(6)(B)(v) by failing to provide the source of the disbursements related to that account
18 adjustment.

19 **II. FACTUAL BACKGROUND**

20 The Committee is a separate segregated fund affiliated with the National Venture Capital
21 Association and also registered as a qualified Lobbyist/Registrant PAC.² On March 20, 2014,
22 the Committee filed its 2014 March Monthly Report, disclosing \$20,562.00 in disbursements on
23 Line 29 (Other Disbursements) of the Detailed Summary Page.³ On July 25, 2017—over 39

¹ RAD Referral, National Venture Capital Association Venture PAC (Mar. 6, 2018) ("Referral").

² *See* Amended Statement of Organization, NVCA PAC (Feb. 1, 2018).

³ RAD Referral, RR 18L-14 (NVCA PAC) (Mar. 6, 2018). On April 18, 2014, a Request for Additional Information (RAI) was sent to the Committee referencing the original 2014 March Monthly Report and requesting clarification regarding missing purposes for itemized disbursements on Schedule B, supporting line 29. *Id.* at 1.

1 months later—the Committee filed an Amended 2014 March Monthly Report disclosing a
2 disbursement on Line 29 of \$93,339.13 with a purpose of “Prior Period Adjustment.”⁴ On that
3 same day, the Committee filed a FEC Form 99 (“Form 99”) regarding the Amended 2014 March
4 Monthly Report and stating, in part, that the reconciling entry of \$93,339.13 on the Report
5 reflects a “discrepancy between the PAC’s bank account balance and the balance it disclosed to
6 the FEC prior to the three-year review period.”⁵

7 On December 25, 2017, RAD issued an RFAI to the Committee regarding the Amended
8 2014 March Monthly Report asking for clarifying entries and information related to the
9 \$93,339.13 account adjustment disclosed on the report.⁶ On January 29, 2018, the Committee
10 filed another Form 99, which provided the same explanation as the one provided on the earlier
11 Form 99.⁷ On February 9, 2018, RAD informed the Committee that the matter would be referred
12 to OGC.⁸ In response to the referral, the Committee stated that it commissioned an independent
13 audit after its own internal audit revealed discrepancies between its FEC reports and its bank

The RFAI also advised the Committee that transactions were disclosed on the wrong line of the Detailed Summary page. *Id.* On April 30, 2014, the Committee filed an Amended 2014 Monthly March Report that disclosed \$13.77 in disbursements on Line 29, moving \$20,548.23 in activity to Schedule B, supporting Line 21(b) (Other Federal Operating Expenditures). *Id.* at 2. On August 13, 2014, the Committee filed an Amended 2014 Monthly March Report disclosing no change in disbursements from the previous report. *Id.*

⁴ Amended 2014 Monthly March Report, NVCA PAC (July 25, 2017).

⁵ See FEC Form 99, NVCA PAC (July 25, 2017). Further, the Committee stated that the staff responsible for administering the Committee three years ago have since then been replaced with new employees. *Id.*

⁶ *Id.*

⁷ FEC Form 99, NVCA PAC (Jan. 29, 2018). In addition, the Form 99 stated that the Committee has instituted formal procedures, using the Commission’s policies on Best Efforts, Safe Harbors for Embezzlement and Internal Policies, as guidelines, to prevent a recurrence of the problem. *Id.*

⁸ *Id.* at 4.

1 balances.⁹ The Committee further states that the \$93,339.13 adjustment relates to activity that is
2 both more than three years old and was conducted by employees who are no longer with the
3 association.¹⁰ In addition, the Committee has filed 35 amended reports to correct various errors,
4 most of which were minor, except for the \$93,339.13 discrepancy.¹¹ Although the independent
5 audit was unable to determine the source of the discrepancy, the Committee asserts that it
6 voluntarily amended the relevant report and instituted remedial procedures to eliminate the
7 potential for future accounting and reporting errors.¹²

8 III. LEGAL ANALYSIS

9 The Federal Election Campaign Act of 1971, as amended (the "Act"), requires committee
10 treasurers to file reports of receipts and disbursements in accordance with the provisions of
11 52 U.S.C. § 30104.¹³ The Act and Commission regulations further provide that political
12 committees other than authorized committees identify each person who has received any
13 disbursement within the reporting period not otherwise disclosed in accordance with 11 C.F.R.
14 § 104.3(b)(3) to whom the aggregate amount or value of disbursements made by the reporting
15 committee exceeds \$200 within the calendar year, together with the date, amount and purpose of
16 any such disbursement.¹⁴ Here, the Committee did not comply with the Act's reporting

⁹ RR 18L-14 (NVCA PAC), Response at 1-2 (May 4, 2018) ("Resp.").

¹⁰ *Id.* at 2. According to the Committee, the independent audit was focused on activity within a three-year period since the Commission regulations only require it to maintain records for three years. *Id.*; see also 52 U.S.C. § 30102(d).

¹¹ Resp. at 2.

¹² *Id.* at 3-4.

¹³ 52 U.S.C. § 30104(a)(1); 11 C.F.R. § 104.1(a).

¹⁴ *Id.* § 30104(b)(6)(B)(v); *Id.* § 104.3(b)(3)(ix).

1 requirements when it disclosed an adjustment of \$93,339.13 to its cash-on-hand balance on its
2 Amended 2014 March Monthly Report, without the necessary individual entries supporting the
3 adjustment.

4 The Committee asserts that the appropriate resolution for the matter is dismissal or
5 referral to ADRO.¹⁵ However, this matter was appropriately referred to the Office of the General
6 Counsel, and the Committee acknowledges its reporting error. Accordingly, the Commission
7 finds reason to believe that the Committee violated 52 U.S.C. § 30104(b)(1) and (b)(6)(B)(v).

¹⁵ Resp. at 1.